

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LONNIE E. McCAIN,

Petitioner,

v.

DAVE DORMIRE,

Respondent.

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Case No. 4:11CV553 AGF

MEMORANDUM AND ORDER

This matter is before the Court on the motion of Petitioner Lonnie E. McCain for appointment of counsel. McCain is a Missouri inmate who is seeking federal habeas relief under 28 U.S.C. ' 2254. He claims that his convictions for first-degree assault of a law enforcement officer, misdemeanor driving while intoxicated, and misdemeanor driving with a revoked license were unconstitutional for various reasons, including the ineffective assistance of his trial counsel.

There is no constitutional right for a pro se habeas petitioner to have counsel appointed, although the Court has discretion to appoint an attorney when necessary. *Lopez-Lopez v. Sanders*, 590 F.3d 905, 906 (8th Cir. 2010); *Morris v. Dormire*, 217 F.3d 556, 558 (8th Cir. 2000). Among the factors a court should consider in making this determination are the factual and legal complexity of the case, the ability of the petitioner to present the facts and present his claims, and the degree to which the petitioner and the Court would benefit from such an appointment. *Morris*, 217 F.3d at 558-59; *Hoggard v.*

Purkett, 29 F.3d 469, 471 (8th Cir. 1994). Upon review of the record, the Court does not believe that the appointment of counsel is necessary here.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's motion for appointment of counsel is **DENIED**. (Doc. No. 2.)



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 28th day of January, 2014.